

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL CASE NO. 3:16-cv-00260-MR
[CRIMINAL CASE NO. 3:09-cr-00018-MR-1]**

GEORGE LAMONT MOORE,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

)
)
)
)
)
)
)
)
)
)
)

ORDER

THIS MATTER is before the Court on Petitioner’s Motion to Vacate Sentence under 28 U.S.C. § 2255 [Doc. 1]; the Government’s Motion to Place Motion under 28 U.S.C. § 2255 in Abeyance [Doc. 4]; and the Government’s Response to Petitioner’s Motion to Vacate [Doc. 6].

Petitioner seeks relief from his 180-month sentence under 28 U.S.C. § 2255, arguing that he was improperly sentenced as an armed career criminal because he does not have three prior convictions for violent felonies within the meaning of the Armed Career Criminal Act (“ACCA”), 18 U.S.C. § 924(e). Petitioner relies on the Supreme Court’s decision in Johnson v. United States, 135 S. Ct. 2551 (2015). In its response, the Government concedes

that, in light of Johnson, Petitioner no longer qualifies as an armed career criminal. [Doc. 6].¹

For the reasons stated in the Government's Response, the Court will grant Petitioner's motion to vacate.

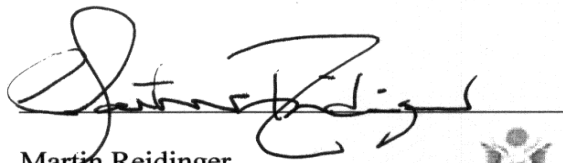
Accordingly, **IT IS, THEREFORE, ORDERED** that the Petitioner's Motion to Vacate [Doc. 1] is **GRANTED**, and Petitioner shall be resentenced in accordance with this Order.


IT IS FURTHER ORDERED that the Government's Motion to Place Motion under 28 U.S.C. § 2255 in Abeyance [Doc. 4] is **WITHDRAWN**.

An Order directing the return of Petitioner to this District for resentencing shall be entered contemporaneously with this Order.

IT IS SO ORDERED.

Signed: July 8, 2016


Martin Reidinger
United States District Judge



¹ The Government previously had moved to place this case in abeyance pending the Fourth Circuit's decision on a petition for panel rehearing in United States v. Gardner, No. 14-4533, 2016 WL 2893881 (4th Cir. May 18, 2016). [Doc. 4]. The Fourth Circuit denied the Government's petition for panel rehearing on July 6, 2016, and thus the Government withdraws its request to place this case in abeyance. [Doc. 6 at 3 n.1].